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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON

7 KIER KEAND'E GARDNER,

8 Plaintiff,

9 v.

10 STATE OF WASHINGTON,

11 Defendant.

NO: 4:19-CV-5148-TOR

ORDER DISMISSING COMPLAINT

**1915(g)**

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13 By Order filed August 9, 2019, the Court granted Plaintiff, a prisoner at the  
14 Washington State Penitentiary, the opportunity to voluntarily dismiss his *pro se* civil  
15 rights complaint within thirty days. ECF No. 11. Plaintiff's complaint in which he  
16 sought a legal name change failed to state a claim upon which relief may be granted  
17 in this Court. *Id.*

18 Plaintiff did not avail himself of the opportunity to voluntarily dismiss this  
19 action. Because it is absolutely clear that no amendment will cure the deficiencies  
20 of Plaintiff's complaint, *Noll v. Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987),

1 *superseded by statute*, 28 U.S.C. § 1915(e)(2), *as recognized in Aktar v. Mesa*, 698  
2 F.3d 1202, 1212 (9th Cir. 2012), **IT IS ORDERED** the complaint, ECF No. 1, is  
3 **DISMISSED with prejudice** for failure to state a claim upon which relief may be  
4 granted. 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

5 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who  
6 brings three or more civil actions or appeals which are dismissed as frivolous or for  
7 failure to state a claim will be precluded from bringing any other civil action or  
8 appeal *in forma pauperis* “unless the prisoner is under imminent danger of serious  
9 physical injury.” 28 U.S.C. § 1915(g). **Plaintiff is advised to read the statutory**  
10 **provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff's complaint may**  
11 **count as one of the three dismissals allowed by 28 U.S.C. § 1915(g) and may**  
12 **adversely affect his ability to file future claims.**

13 Accordingly, IT IS HEREBY ORDERED:

- 14 1. The complaint, ECF No. 1, is **DISMISSED with prejudice** for failure to state  
15 a claim upon which relief may be granted under 28 U.S.C. §§ 1915(e)(2) and  
16 1915A(b)(1).
- 17 2. Plaintiff’s *in forma pauperis* status is revoked.
- 18 3. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this  
19 Order would not be taken in good faith.

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1           **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,  
2 enter judgment, provide copies to Plaintiff at his last known address, and **CLOSE**  
3 the file. The Clerk of Court is further directed to forward a copy of this Order to  
4 the Office of the Attorney General of Washington, Corrections Division.

5           **DATED** September 16, 2019.



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*Thomas O. Rice*  
THOMAS O. RICE  
Chief United States District Judge